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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Romania submitted by Mr. Joseph Voyame, Special Rapporteur appointed in accordance with resolution 1989/75 of the Commission on Human Rights

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INTRODUCTION

1. At its forty-fifth session, in 1989, the Commission on Human Rights adopted resolution 1989/75 entitled "Human rights situation in Romania". In that resolution, the Commission, inter alia, expressed concern at the allegations of serious violations of human rights and fundamental freedoms in Romania and requested its Chairman, after consultation with the Bureau, to appoint a special rapporteur to examine the human rights situation in that country.

2. Pursuant to that resolution, on 18 December 1989, the Special Rapporteur submitted to the Commission a report (E/CN.4/1990/28) on the human rights situation in Romania together with his conclusions and recommendations. In view of the events which occurred after that date and the radical changes to which they gave rise, on 22 February 1990 the Special Rapporteur submitted to the Commission an addendum to his report (E/CN.4/1990/28/Add.1) which updated it and referred to developments in Romania after 18 December 1989.

3. At its forty-sixth session, on 6 March 1990, the Commission on Human Rights adopted resolution 1990/50 entitled "Situation of human rights in Romania". In that resolution, the Commission took note in particular of the considerable improvement in respect for human rights that had taken place in Romania; it recommended that the Romanian authorities continue their action to ensure that human rights in all their aspects were respected in their country, both de jure and de facto, and pay particular attention to the points raised in the most recent report of the Special Rapporteur (E/CN.4/1990/28/Add.1); it also recommended that the Romanian authorities consider the possibility of using the Voluntary Fund for Advisory Services; it decided to extend the mandate of the Special Rapporteur for a further year; it requested the Special Rapporteur to report to the Commission at its forty-seventh session; and lastly, it took note with appreciation of the readiness of the Government of Romania to co-operate with the Commission and its Special Rapporteur.

4. At its first regular session in 1990, on 25 May, the Economic and Social Council adopted decision 1990/232 approving Commission resolution 1990/50.

5. The following report is submitted to the Commission on Human Rights in accordance with the provisions of paragraph 6 of resolution 1990/50.

6. In chapter I, the Special Rapporteur describes the activities he carried out in performing his mandate.

7. Chapter II contains an outline of the main events relating to the human rights situation in Romania which have occurred since the submission of the previous report (E/CN.4/1990/28/Add.1).

8. Chapter III deals with the human rights situation in Romania. It contains an analysis of the information compiled by the Special Rapporteur in connection with the various human rights and fundamental freedoms and their de jure and de facto implementation.

9. Lastly, in chapter IV, the Special Rapporteur submits a number of conclusions and recommendations deriving from his analysis of the information compiled on the human rights situation in Romania.

10. Annexes I and II contain the programmes of work of the Special Rapporteur during his visits to Romania. Annex III reproduces some of the chapters of Decree-Law No. 92 concerning the election of Parliament and the President of Romania; annex IV reproduces the text of Decree-Law No. 126 containing a number of measures relating to the Romanian Greek (Uniate) Catholic Church; annexes V and VI reproduce the texts of Act No. 20 amending and supplementing certain provisions of the Criminal Code and the Code of Criminal Procedure, and Act No. 21, which transfers the Directorate-General for Prisons from the Ministry of the Interior to the Ministry of Justice.

I. MANDATE AND ACTIVITIES OF THE SPECIAL RAPPORTEUR

11. The present report has been drafted pursuant to resolution 1990/50 of the Commission on Human Rights. In the exercise of his mandate, and having regard to the readiness of the Government of Romania to co-operate with the Commission and with himself, the Special Rapporteur has endeavoured to compile relevant information from the Romanian Government, specialized agencies, intergovernmental and non-governmental organizations, and the individuals concerned.

12. In a letter dated 18 July 1990 addressed to the Minister for Foreign Affairs of Romania, the Special Rapporteur expressed his appreciation to the Romanian authorities for their continued co-operation with him in the performance of his mandate and suggested that he should make a visit to Romania from 19 to 23 August 1990. The suggestion was accepted by the Romanian authorities and the visit took place on those dates.

13. During his stay in Romania, the Special Rapporteur was received, in accordance with a programme worked out in consultation with the Romanian Ministry of Foreign Affairs, by Mr. Adrian Nastase, Minister for Foreign Affairs, Mr. Bogdan Marinescu, Minister of Health, Major-General Corneliu Diamandescu, Major-General Dumitru Penciuc and Colonel Gheorghe Carp, Secretaries of State in the Ministry of the Interior, Major-General Gheorghe Bostina, Chief of the Directorate-General for Prisons in that Ministry, Mr. Coriolan Babeti and Mr. Andor Horvath, Secretaries of State in the Ministry of Culture, Mr. Radu Giroveanu, Under-Secretary of State in the Ministry of Justice, and other senior officials from the Ministries of Foreign Affairs, Justice and Health. The Special Rapporteur also had talks with Mr. Lazar Vlasceanu, Vice-Rector of the University of Bucharest, and Mr. Alexandru Athanasiu, professor in the Faculty of Law of that University. In connection with the administration of justice, the Special Rapporteur met Mr. Gheorghe Robu, the Government Attorney, together with other judicial officers. He also visited the Jilava prison hospital, where he had talks with the Director of the institution and a number of detainees. He visited the disabled persons' institute in Plataresti, where he had talks with the director and members of the nursing staff, and with a senior official from the Ministry of Labour.

14. The Special Rapporteur also had the opportunity of meeting representatives of non-governmental organizations concerned with human rights issues, including representatives of the Romanian League for the Protection of Human Rights and the Group for Social Dialogue, members of the Romanian Association of Private Psychiatrists, journalists, including those from the newspaper Romania Libera, students and other persons.

15. On 22 August 1990, the Special Rapporteur visited Tirgu Mures, where he met Mr. Vasile Urdea, the District Prefect, and Mr. Victor Suciu, the mayor. He also had talks with members of the Hungarian minority, including representatives of the Democratic Union of Romanian Magyars (UDMR), and with the writer Andras Süto. He also had conversations with members of the Romanian Party of National Union, as well as with the chairman and several members of the Vatra Romaneasca organization.

16. On 25 September 1990, the Special Rapporteur sent to the Minister for Foreign Affairs of Romania a memorandum which was based essentially on the observations he had made during his visit, and on the information he had compiled from various sources on the human rights situation in Romania since the submission of his previous reports to the Commission on Human Rights (E/CN.4/1990/28 and Add.1). In that letter, the Special Rapporteur again requested the co-operation of the Romanian authorities so that he could make another visit to Romania with a view to compiling before the session of the Commission, as complete a picture as possible on the human rights situation taking into account the most recent developments. The Romanian authorities acceded to his request and he made a second visit from 1 to 9 November 1990.

17. In the course of his second visit to Romania, the Special Rapporteur was received by Mr. Petre Roman, the Prime Minister. In accordance with a programme drawn up in consultation with the Romanian Ministry of Foreign Affairs, the Special Rapporteur had talks in this Ministry with Mr. Adrian Nastase, Minister, Mr. Constantin Ene, Secretary of State, and other senior officials; in the Ministry of the Interior, with Mr. Doru Viorel Ursu, Minister, and Major-General Dumitru Penciuc, Secretary of State; with Mr. Catalin Zamfir, Minister of Labour and Social Welfare, and Mr. Athanasiu, Adviser to the Minister; in the Ministry of Justice, with Mr. Lucian Stingu, Under-Secretary of State, and other senior officials; and in the Secretariat of State for Worship, with Mr. Radu Constantinescu, director, and other senior officials. In connection with the administration of justice, the Special Rapporteur met Colonel Mugurel Florescu, Deputy Government Attorney, Mr. Marin Popa, First President of the Court of the Municipality of Bucharest, and other judicial officers. He also visited police stations Nos. 10 and 11 in Bucharest and the Criminal Investigation Department in Bucharest; he held talks with the heads of these establishments and with a number of detainees. He also visited the rehabilitation centre for juvenile offenders in Gaesti, where he spoke with the director, members of the teaching staff and some of the inmates.

18. The Special Rapporteur also met Senator Antonie Iorgovan, Chairman of the Commission set up to draft a constitution, and members of that Commission, and had talks with Deputy Nicolae Radu, President of the Parliamentary commission of inquiry into the events of 13-15 June 1990.

19. He also had talks with Mr. Razvan Theodorescu, President of Romanian Radio and Television.

20. He had the opportunity of meeting several leaders of political and parliamentary parties and groups, including representatives of the Hungarian, gypsy and German minorities, representatives of non-governmental organizations dealing with human rights issues, journalists, sociologists, lawyers, trade unionists and others.

21. On 6 November 1990 the Special Rapporteur went to Brasov, where he met Mr. Ion Sofroniau, the District Prefect, Mr. Ervin Zamhammar, the Deputy Prefect, and a number of local dignitaries, including representatives of the UDMR and the German Democratic Forum. He also spoke with journalists, trade unionists and other persons. He next travelled to Sibiu, where, on 7 November, he met Mr. Nicolae Nan, Prefect of the District of Sibiu, and an official from the Prefecture. During his stay in Sibiu, he also talked with Father Pompei Onofrei, Vicar of the Greek (Uniate) Catholic Church, and with trade unionists and a representative of the UDMR.

22. The Special Rapporteur would point out that, in the course of his two visits to Romania, he met with unfailing help from the authorities, enjoyed complete freedom of movement and freely met all the persons with whom he wished to talk. During his visit in August, his request to interview without witnesses two detainees in the Jilava prison hospital on 21 August was not granted, the Government Attorney's office stating that the inquiry concerning those two persons was still under way. He was therefore allowed to meet them but had to interview them in the presence of witnesses. On the other hand, in November 1990, the Special Rapporteur's request to talk to a number of detainees without witnesses was granted.

II. OUTLINE OF EVENTS RELATING TO THE HUMAN RIGHTS SITUATION IN ROMANIA SINCE THE SUBMISSION OF THE PREVIOUS REPORT

23. This chapter outlines the main events which have affected the human rights situation in Romania since the submission of the previous report (E/CN.4/1990/28/Add.1) in February 1990. It is based essentially on news items in the international press.

24. 18 February 1990. The provisional Government's premises were stormed and looted by demonstrators in Bucharest.

25. 19 February 1990. Thousands of miners from the Jiu valley demonstrated in Bucharest in support of the leaders.

26. 21 February 1990. Mr. Stanculescu, Minister of Defence, announced the measures that were to be taken against Securitate officials: eight generals would be retired from active service and prosecuted; "Department 5" would be disbanded and its officers retired; 611 of the 1,073 officers in "Department 4" would cease their activities and the remaining officers would be assigned to transmission units "under the surveillance of military operational groups". It was also announced that the telephone-tapping system used by Securitate had been dismantled and that the tapping equipment was in the process of being destroyed.

27. 23 February 1990. Trial of 38 young persons arrested on government premises during the incidents of 18 February. These persons (who had originally been charged with parasitism) were convicted of various breaches of the peace. Eleven of them were sentenced to imprisonment for terms of up to six months, and the others were fined or sentenced to other penalties.

Enactment by the provisional Parliament of Decree No. 88 containing a number of measures to protect the organs of the State, public institutions, political group and party headquarters, and to preserve law and order and the

legal system. This law prescribes penalties ranging from six months' to three years' imprisonment for breaking into State premises and premises of public institutions or political parties, and from two to seven years' imprisonment for breaking and entering with violence.

Arrest of three senior officials of the previous régime, former members of the Executive Committee of the Communist Party. One of them, Mr. Paul Niculescu-Mizil, had been appointed Secretary of State for Co-operatives on 24 December 1989 and had been a witness for the prosecution during the trial of four leaders of the previous régime in January 1990 (see document E/CN.4/1990/28/Add.1, para. 23).

28. 2 March 1990. The trial began in Timisoara of a number of senior Securitate officials and of the militia charged with aiding and abetting genocide in crushing the December demonstrations. One of the defendants was Emil Macri, former Securitate general and chief of counter-espionage.

29. 11 March 1990. A coalition of organizations meeting at Timisoara issued a 13-article proclamation, which has come to be known as the Timisoara Proclamation, setting out the reasons for their participation in, and support for, the December revolution. Article 8 of the Proclamation called for an amendment of the electoral law in order to prevent former communist activists and former Securitate officers from standing for election to Parliament or to the presidency during the next three legislatures.

30. 14 March 1990. Appointment by the Pope of 12 Catholic bishops in Romania, seven for the Latin rite and five for the Greek rite.

Adoption by the Provisional Council of National Unity of Decree-Law No. 92 on the election of Parliament and the President of Romania (see annex III). This Decree-Law has nine chapters and 100 articles. Under article 1, political power in Romania is vested in the people and is exercised in accordance with the principles of democracy and freedom; article 2 provides for a system of government based on multi-party democracy and the separation of powers; under article 3, the President and Parliament are elected by free, universal, equal and secret ballot. Article 4 provides for proportional representation of the population (para. 1). Any organizations representing minorities which have been registered by the time of the enactment of the Decree-Law and have failed to obtain the number of votes required for one seat in the Chamber of Deputies are entitled to one seat (para. 2). Under article 6, the Chamber of Deputies is composed of 387 members, to whom others may be added under article 4, paragraph 2. The Senate is composed of senators elected from judets or districts on the basis of population size: up to 500,000 inhabitants, two senators; 500,000 to 750,000, three senators; over 750,000, four senators; city of Bucharest, 14 senators. Under article 8, Romanian citizens exercise their electoral rights equally and fully, without distinction as to nationality, race, language, religion, sex, political opinion or occupation.

31. 15-20 March 1990. Inter-ethnic clashes between members of the Hungarian minority from Transylvania and persons of Romanian ethnic origin. On 15 March, the members of the Hungarian community from Transylvania commemorating the Hungarian revolution of 1848 were joined by Hungarians from Hungary. The ceremony led to several incidents in Satu-Mare and in a number of villages in the region. On 16 March, following an incident at a pharmacy in Tirgu Mures,

there was a clash between members of the two communities. On 19 March, the premises of the UDMR and those of other parties nearby were looted and several persons, including the ethnic Hungarian writer Andras Süto, were injured. In the afternoon of 20 March, there were very violent clashes at Tirgu Mures between members of the Hungarian ethnic group, assisted by gypsies, and members of the Romanian ethnic group. The clashes left six dead and 300 injured, some 100 of whom were taken to hospital. A parliamentary commission was set up by the Government to investigate the events in Tirgu Mures. A commission of inquiry composed of three members from the Romanian ethnic group and three members from the Hungarian ethnic group was also set up at the local level. The parliamentary commission ended its inquiry on 28 April 1990. In the courts, 15 or so gypsies were tried and found guilty of various offences, such as possession of weapons or disturbance of the peace. About 30 other persons were investigated by the police and 18 were arrested.

32. 18 March 1990. Anti-government demonstrations in Bucharest, Cluj and Constanţa, organized by the Association of Former Political Prisoners and the Student Youth Union.

33. 19 March 1990. The Provisional Council of National Unity decreed that elections would be held on 20 May 1990 to designate the President of the Republic and members of the Chamber of Deputies and the Senate.

34. 20 March 1990. Beginning of the electoral campaign, which ended two days before the elections.

35. 1 April 1990. Anti-government demonstration in Bucharest.

36. 8 April 1990. Mr. Iliescu announced that the provisional Parliament had decided to establish a new counter-espionage service to replace the Securitate. The new agency was to be called the "Romanian Information Services".

37. 13-16 April 1990. Protest demonstrations in Bucharest following the Romanian authorities' decision not to allow former King Michael to visit Romania. Those demonstrations in turn provoked a counter-demonstration by supporters of the National Salvation Front (NSF) and there were clashes between the two groups.

38. 21 April 1990. Beginning of the occupation of University Square in Bucharest by demonstrators hostile to the NSF leaders. After a first attempt to eject them by force on 24 April (during which some 1,000 policemen intervened, manhandled demonstrators and arrested some of them), the occupation continued until 13 June. On 30 April, a group of demonstrators began a hunger strike to protest against Ion Iliescu's standing for the presidency and later to demand an independent television station. Seventeen persons were still on hunger strike when the square was evacuated on 13 June.

39. 27 April 1990. Electoral meeting in support of Mr. Iliescu and the NSF attended by some 10,000 persons.

40. 28 April 1990. Formation of the National Alliance for the Timisoara Proclamation (see para. 29 above), following a convention in Timisoara on 27 and 28 April with the participation of several opposition parties and various groups in favour of an amendment of certain provisions of the electoral law.

41. 29 April 1990. Anti-NSF demonstrations in Bucharest, Cluj, Constanţa and Timisoara.

42. 1 May 1990. Anti-NSF demonstration and counter-demonstration in Sibiu.

43. 7 May 1990. The chief of police announced that, as at 5 May 1990, 105 attacks on party headquarters or billboards had been recorded, and that criminal proceedings had been instituted against 63 persons. Mr. Radu Campeanu, leader of the Liberal Party, was violently attacked at Braila during the week-end. Other incidents occurred at Brasov.

44. 11 May 1990. The representatives of the Liberal Party withdrew from the Provisional Council of National Unity in protest against the Acting President's refusal to consider the proposal to postpone the presidential election made by candidates Radu Campeanu (Liberal Party) and Ion Ratiu (National Peasant Party).

45. 15 May 1990. The Vatican announced the resumption of diplomatic relations, which had been broken off by Bucharest in the 1950s.

46. 20 May 1990. Election of the President of the Republic and parliamentary elections.

47. 25 May 1990. The results of the presidential election were published: Mr. Ion Iliescu, National Salvation Front candidate, received 85.07 per cent of the votes cast; Mr. Radu Campeanu, Liberal Party candidate, 10.64 per cent; and Mr. Ion Ratiu, National Peasant Party candidate, 4.29 per cent. The NSF obtained 263 seats in the Chamber of Deputies, the UDMR 29, the Liberal Party 29, the Romanian Ecological Movement 12, the National Peasant Party 12 and the Romanian Unity Alliance 9. Representation in the Senate was as follows: NSF, 91 seats; UDMR, 12; Liberal Party, 10; Romanian Unity Alliance, 2; the National Peasant Party, the Romanian Ecological Movement and the Ecological Party of Romania each won one seat in the Senate; one seat was also assigned to an independent candidate.

48. 26 May 1990. The trial of Mr. Nicu Ceaucescu, charged with aiding and abetting genocide, opened in Sibiu.

49. 13-15 June 1990: the events at University Square and their repercussions. On the morning of 13 June, the police and army surrounded the demonstrators and hunger-strikers at University Square in Bucharest. In the course of the forcible evacuation of the demonstrators, many persons were injured and several hundred arrested. During a search of the Institute of Architecture, located on the Square, several students were beaten and three were arrested and released later in the day. During the afternoon, the headquarters of the Bucharest police, the premises of the Ministry of the Interior and Romanian Television were attacked. According to official sources, six persons died as a result of the events of 13 June, including three from gunshot wounds. During the evening, President Iliescu appeared on television to appeal to "workers and persons of conscience" to come and protect the government buildings and television headquarters, and restore law and order in the name of the values of the December revolution. General Mihai Chitac, Minister of the Interior, was removed from office and replaced by Mr. Doru Viorel Ursu. Early on the morning of 14 June, several thousand miners (the figure of 10,000 has been mentioned) arrived in Bucharest. Many

were armed with clubs, iron bars and pick-handles. On 14 and 15 June, approximately 1,000 arrests were made by the miners and/or the police. Several hundred people were injured in the process, and 100 or so had to be hospitalized. The headquarters of the Liberal Party and the National Peasant Party, those of the 21 December Organization and the offices of the opposition newspaper Romania Libera were attacked. Mr. Marian Munteanu, President of the Romanian Students League, was severely beaten by a group of miners on 14 June and taken to hospital. He was arrested on 18 June, as was Mr. Dumitru Dinca, a member of the Popular Alliance. Both were taken to the prison hospital at Jilava. They were charged with incitement to violence, causing a breach of the peace and destruction of public property (Criminal Code, arts. 324, 321 and 231). Other leading figures arrested in connection with the events at University Square were Mr. Teodor Maries and Mr. Andrei Apostol, Mr. Dumitru Tudor (arrested on 28 June after several days of silent protest in front of the building where President Iliescu's inauguration ceremony had taken place on 20 June), and Mr. Leon Nica, President of the Social Democrat Party, indicted on 18 June. On 3 July, the Romanian authorities announced that at least 83 persons would be tried for their part in the June incidents. It was also announced that six persons had been killed during the riots before the miners' arrival. According to a statement by the Ministry of Foreign Affairs, the security forces had no responsibility in the death by shooting of three persons. On 13 July, several tens of thousands of people demonstrated in Bucharest to demand Mr. Marian Munteanu's release. The same day, the Prime Minister Petre Roman announced that certain miners responsible for the repression that had taken place during the mid-June incidents would be prosecuted (those responsible for the attacks on the headquarters of the National Peasant Party and Mr. Ion Ratiu's home). On 22 July, further demonstrations took place in Bucharest for Mr. Munteanu's release. On 3 August, Mr. Munteanu and nine other detainees were released. According to the Government Attorney, Gheorghe Robu, these persons no longer represent a threat to law and order, but the judicial inquiry regarding Mr. Munteanu is continuing. On 10 August, the Romanian authorities announced the release of 43 demonstrators arrested in June. Mr. Leon Nica was released on 13 August. In mid-August, according to official sources, 141 persons were still being held in connection with the events; several had already been tried and sentenced to prison terms of up to six months. On 23 August, the Bucharest Public Prosecutor's Office announced that Mr. Dumitru Dinca and Mr. Teodor Maries had been charged with causing a breach of the peace and entering the premises of Romanian television.

On 25 September, four miners and two police officers were arrested and imprisoned for "misdeeds" committed during the mid-June events against the demonstrators at University Square in Bucharest.

On 13 October, approximately 2,000 persons demonstrated in Bucharest in response to the appeal by the Students' Convention for the release of persons still in prison as a result of the June 1990 confrontations.

On 24 October, the Bucharest court decided temporarily to release 29 University Square demonstrators, including Mr. Dumitru Dinca and Mr. Teodor Maries.

As a result of the events of 13-15 June, the Romanian Parliament decided to establish a commission of inquiry to ascertain the causes and conditions that had led to and sparked off those events. The membership of the

commission was established by decision of the Senate (No. 12 of 18 June) and the Chamber of Deputies (No. 11 of 19 June). According to a communiqué from the commission dated 17 December 1990, over 300 persons testified before it and 74 persons submitted written testimony and complaints. After listening to the leaders and members of several political and non-political organizations and persons who had held important public posts during the period in question, and after having sent two sub-commissions to Miercurea-Ciuc and the coal mines in the Jiu valley and Oltenie, the commission concluded that the investigations should continue.

50. 23 June 1990. The Supreme Court sentenced Mr. Nicolae Andruta Ceaucescu, Nicolae Ceaucescu's brother, to 15 years' imprisonment.

51. 23 June 1990. Establishment, in Cluj, of a new independent Forum with the aim of bringing together opponents of the Government under the honorary chairmanship of Mrs. Doina Cornea.

52. 25 June 1990. President Iliescu announced the establishment of a new anti-riot force.

53. 28 June 1990. Appointment of new Government comprising 23 members: Mr. Petre Roman became Prime Minister; Mr. Adrian Nastase, Minister for Foreign Affairs; Mr. Doru Ursu, Minister of the Interior; General Victor Stanculescu, Minister of Defence.

54. 23 July 1990. Establishment of a new party: the Liberal Party, young people's branch.

55. 22 August 1990. Occupation of University Square by several hundred demonstrators hostile to the Head of State. On 26 August, 1,000 policemen charged the demonstrators, who were blocking one of the capital's main thoroughfares. A number of persons were arrested. On 28 August, the Mayor of Bucharest prohibited demonstrations in the city centre.

56. 9 September 1990. Closure at Brasov of a "reconciliation conference" of labour and intellectual leaders, with the participation of Mr. Marian Munteanu and the writers Stelian Tanase and Ana Blandiana, among others. General strike called for 13 September by the Infratirea trade union.

57. 10 September 1990. Opening of the trial of the former chief of Securitate, General Iulin Vlad, charged with aiding and abetting genocide for having "forcibly quelled the popular revolution" of December 1989. On 19 October 1990, General Vlad's file was referred to the military prosecutor's office for additional investigation and the trial was adjourned.

58. 13 September 1990. Mr. Nicu Ceaucescu sentenced to 25 years' imprisonment, of which 20 for "aggravated incitement to murder" and 5 for violation of weapons legislation. Under Romanian law, he would serve only the heavier sentence, i.e. 20 years' imprisonment. Mr. Nicu Ceaucescu filed an appeal.

59. 17 September 1990. Establishment, under the auspices of the Prime Minister, of a committee on children made up of representatives of various national institutions (members of the Government, clergy, non-governmental organizations, etc.).

Over 10,000 demonstrators marched in Timisoara, accusing the Government of "stirring up nationalist tensions". On the same day, 80,000 workers went on strike in the port of Constanța to demand sanctions against the administration, which, according to the trade-union federation Fratia, was "jeopardizing the governmental programme".

60. 24 September 1990. Meeting to end the Constanța workers' strike. According to the agreement concluded with the trade unions, a governmental commission of inquiry would be established to examine the disputed leaders' management.

61. 25 September 1990. General Corneliu Diamandescu, Secretary of State in the Ministry of the Interior and Chief of Police, was removed from office.

62. 10 October 1990. The Public Prosecutor's Office announced that Mr. Nicu Ceaucescu would again be tried by the Romanian courts for "misappropriation of property".

63. 18 October 1990. The Prime Minister announced emergency measures to accelerate the transition to a market economy. Among those measures was the dismissal of the Secretary-General of the Government and 13 Secretaries of State or Under-Secretaries of State, together with a rise, to take effect on 1 November, in certain prices and the decontrolling of others, and a nearly 70 per cent devaluation of the leu. Those measures were to be accompanied by compensation for the price rises and the establishment of a wage index aligned on the decontrolled prices.

64. 1 November 1990. Beginning of several days of demonstrations in Bucharest against the decontrolling of prices. On the evening of 3 November, the Ministry of the Interior press service announced that all measures would be taken to ensure "the stability, peace and order called for by the great majority of the population".

65. 12 November 1990. Parliament voted to grant the Government "increased powers" for the purpose of implementing the economic reform. The increased powers consisted, in particular, of the power to enforce laws adopted by Parliament immediately without waiting expiry of the period prescribed for their entry into force.

66. 15 November 1990. Anti-government demonstrations by over 100,000 persons in Bucharest and several tens of thousands of persons in the country's main cities, notably Timisoara and Brasov, to commemorate the 1987 Brasov workers' uprising. The demonstrators, co-ordinated by the Civic Alliance, a group established the previous week and comprising various dissenting movements, called for the resignation of the President of the Republic and the Government.

67. 15 December 1990. The Romanian opposition cancelled a demonstration to commemorate 21 December 1989, in order to avoid "any provocation".

The main political parties of the parliamentary opposition regrouped into a consultative organ, the National Convention for the Establishment of Democracy.

The Civic Alliance, composed of the opposition groups outside Parliament, decided in favour of a Government of national unity which would lead the country to early elections.

68. 17 December 1990. Demonstration by tens of thousands of students and workers calling for the resignation of the Government.

III. EXAMINATION OF INFORMATION COMPILED ON THE HUMAN RIGHTS SITUATION IN ROMANIA

A. Right to life and to physical and moral integrity; respect for privacy

69. According to the information and testimony compiled by the Special Rapporteur, a number of measures have been adopted to redress the abuses and violations committed under the previous régime in the area of the right to life and to physical and moral integrity. Thus, certain articles of the Criminal Code and the Code of Criminal Procedure have been amended to take account of the provisions of Decree-Law No. 6/1990 concerning the abolition of the death penalty. Similarly, the National Commission set up to examine the claims and grievances of the victims of the dictatorship has made recommendations to the effect that judicial decisions considered to be unjust should be reviewed. Decree-Law No. 118 of 30 March 1990 (to grant rights to persons persecuted for political reasons by the dictatorship established on 6 March 1945) is aimed at providing compensation, in particular for former political prisoners and persons imprisoned without trial, unlawfully held in psychiatric hospitals or under house arrest.

70. In the area of international standards, Romania has ratified the second Optional Protocol (abolition of the death penalty) to the International Covenant on Civil and Political Rights. Romania has also decided to accede to to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and amendments have been made in the Criminal Code and the Code of Criminal Procedure to incorporate the relevant provisions of that Convention (see annex V). Finally, there appears to be a consensus within the parliamentary Commission set up to draft a Constitution on the need to include guarantees of effective respect for human rights and fundamental freedoms, in conformity with recognized international standards.

71. The information received also indicates that a number of criminal investigations have been opened as a result of the events of December 1989; 133 persons have been arrested and charged and 757 cases are currently being investigated. As at 20 August 1990, 33 persons had been tried and convicted for their participation in these events. Other trials of former leaders are currently taking place or are about to begin.

72. In practice, however, the information received indicates a number of violations of the right to life and to physical integrity. In that connection, many people interviewed mentioned: the demonstrations and counter-demonstrations on 18 and 19 February 1990 in Bucharest; the inter-ethnic incidents on 15, 19 and 20 March 1990 in Tirgu Mures and other communities with populations of mixed Hungarian and Romanian origin; the incidents during the presidential and legislative election campaigns; the police intervention against the University Square demonstrators in Bucharest

on 24 April 1990; and in particular the events of 13-15 June 1990 in Bucharest. Among the main allegations concerning these various incidents are the excessive use of force by the police, who are said, on 24 April and the morning of 13 June, to have violently broken up essentially peaceful demonstrations, manhandling, beating and arresting many persons including children. Conversely, the information received indicates a lack of reaction by the police and armed forces on the afternoon and evening of 13 June to the attack on police headquarters, the Ministry of the Interior and the premises of Romanian Television. Doubts were expressed as to whether those attacks had been spontaneous. Several persons with whom the Special Rapporteur talked referred in that connection to the presence of agents provocateurs among the demonstrators. During the clashes inside the Ministry of the Interior, two persons were shot dead. At least four other persons were killed on the evening of 13 June. Several persons dispute the official figure of six fatalities and maintain that dozens of people were killed and that many disappeared.

73. The information received also indicates an insufficient police presence and reaction during the inter-ethnic clashes on 19 and 20 March in Tirgu Mures, which caused the death of six persons (see also para. 136 below).

74. According to the information received, the authorities' recourse, on 19 February and the evening of 13 June 1990, to representatives of the working class to "restore order" unleashed a wave of violent repression that resulted, in particular after the miners' action in Bucharest on 14 and 15 June, in injuries to several hundred persons, many of whom had to be hospitalized. It is also alleged to have caused the attack on, and sacking of, the headquarters of several parties - including the Liberal Party and the National Peasant Party, violent raids on the premises of several newspapers, and the sacking and looting of several University of Bucharest buildings. In addition to this violence, the hostile acts are alleged to have been directed more particularly at certain categories of persons, such as students, intellectuals, members of political parties, human rights activists, journalists and members of the gypsy community.

75. According to numerous accounts, the miners were in many cases accompanied and guided by civilians, often disguised as miners, who told them the precise addresses of the individuals or institutions to be attacked. Several persons stated that they had personally recognized former members of Securitate among the civilians accompanying the miners. Approximately 1,000 persons are alleged to have been arrested by the miners or by the miners and police jointly. Acts of brutality were allegedly committed while people were being taken to the police stations, and many persons are reported to have been held incommunicado, in particular at the Magurele military base and at Baneasa, for periods of up to five days, and later released, often without receiving any attestation that they had been detained during that period. In at least one case, one person is said to have been held for two months and later released without receiving any attestation. There have been several allegations of ill-treatment during that period of detention, including cases of rape and torture. A list of 185 persons for whose arrest warrants had been issued was published by the Public Prosecutor's Office on 14 July 1990. At the end of August 1990, approximately 130 persons were still being held in connection with the judicial inquiry into the events of June 1990. On 30 October, 29 persons against whom judicial proceedings had been instituted (for causing

a breach of the peace, incitement to violence and destruction of public property), were released. According to the Public Prosecutor's Office an inquiry is also under way into the attitude of the police during the events; it is difficult, however, given the general confusion and lack of proof, to identify the persons who set fire to police headquarters or those guilty of abuses and brutality. However, the numerous leading figures whom the Special Rapporteur met are of the opinion that the Public Prosecutor's Office showed more diligence in bringing proceedings against the demonstrators of 13 June than against those responsible for breaking up the demonstrations, in spite of the numerous complaints to the Office by the victims of the violence and abuses. It does seem that only five or six miners have been prosecuted (see also para. 92 below).

76. Mention was also made of poor conditions of detention (see also para. 91 below). Several detainees have gone on hunger strike in protest. Recently released detainees have stated that they were subjected to harassment, humiliation and psychological pressure by the prison authorities. Some were brought before the courts in prison uniform, handcuffed, and have said that they were threatened and ill-treated while being taken to court. They also stated that they had been intimidated by the ordinary prisoners, with the tacit approval of prison staff. The Special Rapporteur noted that solitary confinement in tiny, poorly-lit unventilated cells was used as punishment, even in rehabilitation centres for juvenile offenders, for periods of up to 10 days.

77. Violations of the right to life and physical integrity are also alleged to have been committed during the campaign preceding the 20 May 1990 elections. There are numerous allegations of violent incidents, most committed by supporters of the National Salvation Front against candidates of other parties, in particular the National Peasant Party and the Liberal Party. Two members of the National Peasant Party are reported to have been killed; members of both parties are alleged to have been harassed, threatened or ill-treated, and, in a few cases, seriously injured.

78. Besides these incidents involving physical violence, a certain amount of psychological intimidation and arbitrary intrusion into privacy, frequently practised by the previous régime, is said to be continuing. Action includes: death threats against leading political figures, human rights activists, journalists, trade-unionists, members of ethnic minorities and their families; defamatory articles against these persons in certain popular newspapers and attempts to discredit them; deliberately-caused accidents. Psychological pressure is also said to have been brought to bear against certain persons arrested in connection with the June 1990 events, in order to encourage them to commit perjury. Among the persons whom the Special Rapporteur met, several expressed the belief that, although Securitate had indeed been dismantled as an institution, many of its former cadres - either regrouped within the new Romanian information service, retired or serving in other posts, continued to carry out surveillance and intimidation based on the old methods. Similarly, many persons expressed near-certainty that their telephones were still being tapped, although the authorities assured us that the wire-tapping network had been fully dismantled. Several persons justified that view by the fact that, during the interrogations to which they had been subjected, some of the questions asked had indicated knowledge of information to which the interrogators would not normally have had access. Many are also convinced that secrecy of correspondence is not respected.

79. Generally speaking, many persons referred to the re-emergence of a climate of suspicion, fear and intolerance of opinions other than those of the majority. This climate, which initially seemed to be merely an after-effect of the past - destined gradually to disappear, appears to have been maintained and even aggravated by the crisis of confidence caused by the events of June 1990 in Bucharest. Among the persons with whom the Special Rapporteur spoke, many expressed the opinion that effective measures to purge the former leaders of the régime were still necessary and that the old informers and those responsible for the massacres of December 1990 must be identified if a climate of trust was to be restored. Similarly, several expressed the hope that the parliamentary commissions set up to investigate the events of March 1990 in Tirgu Mures and June 1990 in Bucharest (see para. 96 below) would quickly succeed in determining their causes and instigators.

B. Administration of justice

80. In the course of his conversations with senior officials responsible for the administration of justice, in particular the Government Attorney, his deputy and others, and with the Minister of the Interior and senior members of the Ministry of the Interior and the Ministry of Justice, the Special Rapporteur was given information about the operation of the courts and recent or proposed changes in this area. The Special Rapporteur was reminded that under the former régime the administration of justice, in law and in practice, had been seriously flawed and that the persons currently in office were trying to rectify that situation.

81. In that connection mention was first made of the introduction of the principle of the separation of powers. In accordance with article 2 of Decree-Law No. 92 of 14 March 1990 on the election of Parliament and the President of Romania, Romania's system of government is based on pluralist democracy and the separation of legislative, executive and judicial powers (see annex III). Under the former régime, all State bodies, in particular the Supreme Court, were answerable to the Grand National Assembly.

82. The authorities concerned also recalled the particular rights enjoyed by the Prosecutor's Department under the old Constitution, rights which are now deemed excessive. Under article 112 of that Constitution, the Prosecutor's Department monitored the bodies responsible for criminal prosecutions and execution of penalties, and checked that laws were being respected and that the socialist régime, the legitimate rights and interests of socialist organizations, other juridical persons and citizens were being safeguarded. The Government Attorney, who was previously elected by the Grand National Assembly, is now appointed by the President of the Republic. Information obtained shows that, in order to consolidate the independence of the judiciary, it is planned to bring the Prosecutor's Department under the authority of the Ministry of Justice and to end its supervisory power over the magistrature, a power which in the past was often abused. To the same end, it is proposed that the tribunal system, which allowed certain offences to be tried within enterprises, will be abolished.

83. Furthermore, the criminal legislation in force, in particular the Penal Code and the Code of Criminal Procedure, endowed the Prosecutor's Department with considerable powers at the expense of personal freedom and guarantees

concerning the right of defence. Information obtained shows that a number of amendments have already been adopted or submitted for adoption by Parliament in order to improve the situation.

84. Thus, the law amending and supplementing certain provisions of the Code of Criminal Procedure provides for increased guarantees. A person arrested must be informed immediately of the charges against him and his family informed of his arrest within 24 hours. Detention, for an initial maximum period of 30 days, can only be extended for specific reasons, for a further maximum period of 30 days, by the prosecutor's superior officers responsible for supervising the criminal investigation. The detainee may appeal to the trial judge against the arrest or extended period of detention. Within 24 hours the appeal must be brought before that judge, who after having heard the accused's evidence, must immediately pronounce judgement. If he considers the measure challenged to be illegal, he will quash it and order the detainee's release. The trial judge is also competent to order further extensions of detention for periods not exceeding 30 days. The new law also provides for compensation to victims of unlawful arrest.

85. The reform allows the accused to be released on bail or under judicial supervision throughout the period of pre-trial detention.

86. The amendments oblige the judicial bodies to guarantee the parties the full exercise of their right of defence throughout the criminal proceedings. Article 172 of the Code of Criminal Procedure has been amended: formerly, the Prosecutor's Department could, in the interests of the inquiry, forbid any contact between the accused and his counsel for a period of 30 days, which could be extended once for a further maximum period of 30 days; under the new provisions, the counsel for the defence has the right to be present at every stage of the criminal proceedings. In principle, the accused may immediately contact his counsel. In exceptional circumstances, in the interests of the inquiry, the Prosecutor may waive this right for a maximum of five days.

87. Plans to amend the judicial system include the creation of an intermediate level of jurisdiction, since the Romanian system currently has only two levels. There are also plans to establish a Supreme Council of Justice. Other reforms being studied include the introduction of suspended sentences and a revised régime of punishments for juvenile offenders.

88. Act No. 21 of 15 October 1990 has also been adopted recently; under this Act the administration of prisons, which was formerly the responsibility of the Ministry of the Interior, is transferred to the Ministry of Justice (see annex VI). This Act will come into force on 15 January 1991. It also provides for the formulation, within six months of its entry into force, of new legislation on the execution of penalties. A bill relating to prisoners' food rations is also being examined.

89. Another law recently adopted concerns administrative litigation and provides channels for appeals against administrative abuses. The introduction of effective procedures to protect citizens against arbitrary judicial decisions and administrative acts is one of the proposals being considered by the Commission responsible for drawing up a draft Constitution. The appointment by Parliament of one or more ombudsmen has also been considered; they would inform the competent authorities and make the recommendations

necessary to forestall and eliminate violations of civil rights by the administrative authorities. Lastly, as already mentioned, amendments to the Penal Code and the Code of Criminal Procedure have been made in order to include the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see para. 70 above).

90. While mentioning the efforts being made to improve legislation on the administration of justice, the persons interviewed by the the Special Rapporteur referred to the difficulties faced in practice. They emphasized the shortage of qualified lawyers and jurists, along with the need to provide adequate legal training to meet practical needs. They also pointed out that there had been a considerable rise in the crime rate.

91. It was acknowledged that conditions in most prison establishments were unsatisfactory. One example cited was that of Jilava prison, near Bucharest. It would seem that this prison, where conditions of detention fall short of international standards, is being closed down and will serve simply as a remand centre until a new prison in Bucharest is built in the near future. The Special Rapporteur saw for himself, during his visit to police station No. 11 in Bucharest, that five people, some of whom had been under pre-trial detention for several weeks, were kept in a tiny cell with insufficient light and ventilation and shared only four bunks. The problem of prison wardens was also raised. Generally, there are not enough staff and their attitudes in many cases continue to be those of the past, when brutality towards prisoners was often the rule.

92. According to several officials who spoke with the Special Rapporteur, the procurator's office was in practice trying, even before the new provisions of the Code of Criminal Procedure entered into force, to take account of the new trends and proposed amendments by interpreting legislation in a manner favourable to the protection of human rights. The Special Rapporteur was thus assured that all the persons arrested in connection with the incidents of 13-15 June had been the subject of an arrest warrant. Complaints about violence and damage resulting from these events were said to have been duly taken into consideration. Forty-six complaints had been made concerning abuses by the popular forces. However, many practical difficulties were hindering inquiries, particularly the lack of evidence and the reluctance of some witnesses to testify. According to the Deputy Government Attorney, at the beginning of November 1990, 10 people, including 1 minor, and 2 soldiers, were awaiting trial before military courts for destruction of property during the attack on the Ministry of the Interior on 13 June 1990. Investigations of 1,021 people have been carried out in the course of the criminal investigation into the June events. Sixty-three people, including five or six minors, have been brought before a judicial authority. Criminal proceedings have been dropped in the case of 17 mentally-handicapped persons; 99 persons have been released but are still being investigated.

93. However, the leading unofficial figures with whom the Special Rapporteur had talks expressed a number of reservations about the administration of justice over the recent period. In their view, the guarantees laid down in Romanian legislation in this area, particularly in the Penal Code and the Code of Criminal Procedure, had been violated on numerous occasions, especially with regard to conditions of pre-trial detention, the requirements relating to arrest warrants, the length of detention, the rights of defence and the prohibition of maltreatment of detainees.

94. Among other things, mention was made of: arrests, especially of minors, carried out by persons not authorized to do so; failure to issue, or late issue of arrest warrants; keeping detainees in ignorance of the specific reasons for their arrest or long delays in informing them of those reasons; striking and wounding, and sometimes torture or rape, of persons under arrest; maltreatment of young people under 18 arrested during demonstrations; extensions of pre-trial detention beyond the time-limit laid down by law; refusal to allow counsel access to the charges without a substantiated order, during the inquiry stage; solitary confinement and denial of adequate medical care for detainees; confessions and statements obtained under pressure during interrogations at police stations.

95. A certain tendency towards discrimination in the administration of justice was also noted. Thus, the critera used for making arrests in connection with the events of February, March and June 1990 were considered discriminatory. Many participants in the demonstrations of 18 February, 24 April and 13 June were reportedly arrested, falsely charged and, in some cases, sentenced and convicted for inciting violence or causing a breach of the peace, or under the very vague provisions of Decree No. 153/1970 (whose improper use against opponents under the former régime had been fiercely criticized and which the present authorities reportedly propose to abolish). On the other hand, very few criminal proceedings have apparently been instituted against those who took part in the various counter-demonstrations, in spite of the many complaints filed about various abuses. Similar discrimination has been noted in cases where people - apparently almost always demonstrators - have been held in custody and under pre-trial detention. The same observation was made about the judicial action taken on the ethnic clashes in March 1990. A recent incident in Tirgu Mures would seem to have led, under pressure from a section of public opinion, to members of the Hungarian minority receiving sentences which were excessive in relation to the offence committed. Lastly, there was criticism of the slowness with which the authorities in the district of Constanta had investigated events in the village of Kogalniceanu, where homes belonging to members of the Rom community were ransacked and set alight (see para. 140 below).

96. The Special Rapporteur was also informed that various commissions of inquiry had been established, in particular the governmental commission set up by decision No. 162 of 22 February 1990 to investigate the events of December 1989 in Timisoara, and the parliamentary commissions appointed to investigate the events in Tirgu Mures on 15, 19 and 20 March 1990 and in Bucharest from 13 to 15 June 1990. The reports from these commissions were not yet available by the time the present report was completed.

C. Freedom of movement

97. As the Special Rapporteur has already noted in the addendum to his previous report (E/CN.4/1990/28/Add.1), the measures which impeded the right to freedom of movement under the former régime have been abolished.

98. Decree-Law No. 10 of 8 January 1990 establishing regulations concerning passports and travel abroad proclaimed the right of Romanian citizens freely to go to foreign countries and the abolition of entry and exit visas for Romanian citizens. Decree-Law No. 12/1990 rescinded article 245 of the Penal Code, in accordance with which many people who had tried to make unauthorized

border crossings had been prosecuted under the former régime. Decree No. 402/1982, under which Romanian citizens were required to reimburse the State for the money spent on their education before they could be authorized to live abroad, has also been rescinded.

99. Decree-Law No. 7 of 31 December 1989 provides for measures which allow the repatriation of Romanian citizens and former Romanian citizens. In addition, Decree-Law No. 137 has simplified the conditions for acquiring Romanian nationality.

100. Decree No. 68/1976, which imposed restrictive conditions for residence in the country's largest cities, has also been rescinded and thus the free movement of people within the country is now guaranteed. Similarly, the regulations concerning the compulsory posting of graduates have been rescinded.

101. The case of a Romanian citizen who had been expelled from Romania in April 1990 and prevented from returning in October because he had not been in possession of a valid Romanian passport was brought to the attention of the Special Rapporteur. The Romanian authorities recognized the illegality of expelling a citizen who had not renounced his nationality and who thus, under Romanian law, was without question a national. According to the authorities, the case is being settled and a new passport will shortly be issued to the person in question.

D. Freedom of thought, conscience, religion or belief

102. The information compiled by the Special Rapporteur in this area confirms what was stated in the addendum to his previous report (E/CN.4/1990/28/Add.1), namely, that freedom of conscience and religion has been fully restored.

103. The former Department of Worship, which maintained strict control over religious affairs (see E/CN.4/1990/28, paras. 123 and 124), has been replaced by a State Secretariat with much more limited rights. The State Secretariat no longer intervenes in the student intake into theology seminaries, the conditions and criteria for which are now determined independently by each Church.

104. Among recent measures adopted in this area, mention may be made of: Decree-Law No. 126 of 24 April 1990 enacting certain measures relating to the Romanian Greek (Uniate) Catholic Church (see annex IV); the restoration of diplomatic relations with the Holy See; the adoption of several decrees recognizing the spiritual leaders of various Churches, notably the Archbishop of Bucharest and other bishops belonging to the Roman Catholic Church and to the Reformed Church (including the Bishop of Oradea, Laszlo Tökes, who was harassed by the authorities under the former régime), the Romanian Greek (Uniate) Catholic Church and the Muslim Grand Mufti; and finally the reintroduction in schools of moral and religious education, which is taught once a week as an optional subject.

105. New legislation on religious freedom is planned. On the initiative of the State Secretariat for Worship, a dialogue has begun between the 15 officially recognized Churches with the aim of formulating draft legislation in this area. One of the main issues being studied is the status of conscientious objectors and the possibility of instituting an alternative to military service.

106. There are, however, still a number of practical problems with regard to the restitution of property seized from the various Churches under the former régime. The problem is particularly acute in the case of the Romanian Greek (Uniate) Catholic Church. The restitution of the places of worship, schools and other property which had belonged to that Church until December 1948, when its legal existence was ended by decree, is encountering resistance from the Orthodox Church, the beneficiary of most of that property at the time. Decree-Law No. 126 of 24 April 1990 officially recognizes the Romanian Greek (Uniate) Catholic Church and provides for the restitution to that Church of its property seized by the State. As to the restitution of property which was transferred to the Orthodox Church in 1948, one decree makes provision for the establishment of joint interdenominational commissions to resolve the problem. However, it seems that the positions adopted by the two Churches are not easily reconcilable and, at present, the Romanian Greek (Uniate) Catholic Church is encountering serious practical difficulties in some regions and has even had to consecrate four bishops in the open air due to a lack of suitable premises. A parliamentary commission has been formed to try to solve the dispute between the two Churches in Baia Mare.

E. Freedom of opinion and expression

107. Everyone questioned by the Special Rapporteur on this subject agreed that the right to freedom of opinion and expression had been restored since the demise of the former régime. It was stressed that approximately 1,000 new publications had appeared in recent months, and that their authors could express their opinions without reservations and freely write on a wide range of issues.

108. New legislation on the press is being drafted. However, the first draft presented to Parliament did not meet with the approval of media representatives and was rejected. There is controversy about the advisability of adopting specific legislation in this area. Some journalists would prefer to see amendments made to the present Penal Code in order to guarantee protection for citizens against any risk of manipulation, libel and arbitrary interference, increasing the penalties laid down for such actions. A new association of independent journalists (AZR) was founded on 11 September 1990.

109. Mention was made of a number of material and practical problems which continue to hinder certain newspapers and periodicals, in particular, the shortage of paper and its increase in price, problems which are mainly due to the spectacular rise in the number and circulation of these publications. This shortage seems to be having a particularly strong effect on the opposition newspapers, which have limited financial resources. The State monopoly of printing works and centralized planning of the use of printing-presses have also been blamed for restricting the practical independence of newspapers. Strikes in certain State printing works seem to have occasionally prevented opposition newspapers from appearing. In this way, the newspaper Romania Libera was prevented from reaching the news stands on 15, 16 and 18 June 1990. Hopes were expressed to the Special Rapporteur that the imminent removal of this monopoly and the establishment of private printing works would help to improve the situation. Currently, the introduction of a private system seems to be running into administrative and practical difficulties, particularly with regard to the Customs clearance of printing machines or the bonding of printing material. The fact that the

distribution of newspapers and the subscription service are the responsibility of the Postal Administration, constitutes another major problem in the exercise of freedom of the press and the right to information. A further obstacle would seem to be the refusal of some of the people responsible for distribution to do their job in the case of publications expressing minority opinions, particularly in the provinces. In this area, too, the Special Rapporteur has been informed that private distribution networks are gradually being established and that some of them are already in operation. It is, however, striking that these difficulties are scarcely affecting certain down-market magazines, whose editors manage to avoid them by paying bribes.

110. Reticence towards divergent opinions and intolerance of pluralism were alluded to by a number of people who spoke with the Special Rapporteur as areas of concern indicating the survival of attitudes inherited from the past. In this connection, many reservations were expressed about the attitude of Romanian Television executives. Criticisms include biased and discriminatory coverage of certain important events, in particular the demonstrations of 18 February, the proclamation of the Timisoara Alliance of 11 March and the events of 13, 14 and 15 June 1990 in Bucharest. Some programme directors are also accused of having, on occasions, verbally contributed to increased discord and misunderstanding (see also para. 140 below).

111. Intolerance has also apparently taken the form of intentional defamation threats, assaults, pressure on close relatives, intimidating home visits, deliberate accidents and incitement to emigrate. These actions, which are often anonymous but in which some people say they have recognized the work of former members of the Securitate, have engendered a feeling of insecurity and anxiety among the targets (students, journalists, intellectuals, members of opposition parties, human rights activists, trade-unionists, participants in anti-government demonstrations, members of minorities, etc.). This atmosphere of distrust seems to have been further strengthened following repeated violent raids on, and ransacking of, premises belonging to political parties and opposition newspapers, especially during the events of June 1990. Many people drew the Special Rapporteur's attention to the share of responsibility they lay at the door of some of the large newspapers which support the majority and which, through the tone of their articles, would appear to be perpetuating an atmosphere of intolerance and tension, deliberately sowing discord and aggravating social and ethnic divisions.

112. The Special Rapporteur has, however, noted over the recent period the willingness of the authorities to encourage dialogue with the opposition and tolerance of different opinions. A political debating society has thus been formed and television programmes on the major issues of national interest are broadcast, the floor being given alternately to members of the Government and leaders of the main opposition parties. A televised debate has also begun between the Prime Minister and the main trade union organizations. Non-governmental initiatives have also been taken to end the virtual monopoly currently enjoyed by Romanian Radio and Television, and independent radio stations have been set up. Although the two television channels are at present the monopoly of Romanian Radio and Television, four independent local studios have recently been established, one with its own transmitter and the

remainder using the national network outside the main official channel's broadcasting time. In addition, the Romanian Society for an Independent National Television Company (SOTI) was established on 3 September 1990. Its members envisage the creation of an alternative independent satellite television network, and it seems that the project, which is supported by a number of independent associations and trade unions, is under way.

F. Right of assembly and association; participation in the conduct of public affairs

113. The right to freedom of assembly is guaranteed in principle, but the organization of public demonstrations is subject to a number of conditions.

114. In practice, reservations have been expressed about the way in which the authorities have broken up certain demonstrations, particularly those of 18 February 1990 and those in University Square, Bucharest, in June 1990. Many sources criticized the counter-demonstrations in February and June 1990 and expressed considerable doubts about their spontaneous nature. In this connection, attention was drawn to the appeal made by President Iliescu to "workers and people of conscience" to restore order, in the name of the values of the December revolution, and the thanks he paid to the miners on 15 June 1990. Some persons criticized the contradictory attitude of the police, who, on the one hand, attacked mainly peaceful demonstrators exercising their freedom of opinion and assembly, and on the other, tolerated or even helped counter-demonstrators who, armed with clubs, sticks and pickaxes, behaved in an extremely aggressive and violent manner. It was also stressed that peaceful demonstrations had sometimes turned violent owing to the presence of agents provocateurs who had infiltrated the ranks of the demonstrators.

115. With regard to participation in the conduct of public affairs, political pluralism was officially established by Decree-Law No. 8/1990 and by the new electoral law (Decree-Law No. 92 of 14 March 1990 on the election of Parliament and the President of Romania) (see annex III). The electoral law provides for certain guarantees to ensure the proper conduct of the electoral campaign and voting. However, certain problems have apparently arisen over the interpretation of several provisions of the electoral law, for example, concerning the possibility of receiving subsidies from abroad, the criteria for disqualification of candidates and authorization of poster campaigns. In practice, several irregularities were allegedly observed during the campaign before the election on 20 May and also during the voting and counting of the votes. It was reported that a number of local leaders who had been kept in their posts after the régime was changed had switched allegiance to the National Salvation Front (NSF) and used their position and influence to promote the cause of that party's candidates. There were other irregularities which allegedly affected the independent political parties and groups opposed to the NSF, such as the publication of erroneous electoral lists, the destruction of electoral posters, intimidation, psychological pressure and physical assault (see also sect. A above). Obstacles were placed in the way of candidates who wished to explain their platforms, as well as other irregularities during and after the voting. However, these incidents do not seem to have had any decisive effect on the outcome of the election. Complaints were also lodged about these incidents and submitted to the appeal bodies provided for under the electoral law.

116. The members and premises of the opposition parties have reportedly been the specific targets of the various recent counter-demonstrations. The events of 14 and 15 June 1990, for example, were marked by an attack on, and destruction of, the Liberal Party and National Peasant Party headquarters, as well as attacks on other opposition organizations. Defamation campaigns, intimidation and psychological pressure are also allegedly being used against members of various independent movements and associations. The activities of the opposition political parties and movements are said to be often indirectly hampered by practical obstacles, for example, difficulties in obtaining premises and headquarters, as well as the technical and material problems encountered by the opposition press (see para. 109 above).

117. These difficulties notwithstanding, the persons interviewed by the Special Rapporteur said that there had been some improvement in the political climate. They mentioned, for example, the fact that a dialogue had been announced between the Government and the various opposition groups. In addition, a number of people expressed the view that the recent incorporation of several independent groups into a common movement, the Civic Alliance, represented a major step towards strengthening the circles that wished to preserve and promote human rights and fundamental freedoms.

118. Elections to local institutions have in theory, been scheduled for spring 1991, but considerable doubt was expressed as to whether they could in fact be held at that time. The method of voting in local elections has still to be decided. The Romanian authorities seem to want a decentralization policy with some degree of local autonomy, while maintaining the present method of appointing prefects, nominated by the Government. With regard to the present situation, several people considered that most of the prefects and other local officials appointed by the Government after the May 1990 elections had already held senior posts and that reform and a change in local officials were needed. Several representatives of ethnic minorities regretted that they were not sufficiently represented in local institutions.

G. Right to work; trade union rights

119. Recently, a number of measures have been taken to facilitate the transition to a market economy based on free enterprise. As far as wages are concerned, several decrees have been enacted and wages increased in the sectors where working conditions are considered difficult (e.g. the mining sector and the metalworking industry). In some sectors the working-day has been reduced to six hours. Similarly, Decree Law No. 95 of 14 March 1990 introduced a five-day working week in government departments.

120. In connection with social security and the pension system, the Special Rapporteur was told of the shortcomings and weaknesses inherited from the régime in power before December 1989. Amendments are being made to revise the overall approach to, and legislation on, social security.

121. According to the information received, several bills have been drafted, inter alia on collective bargaining, trade unions, the settlement of labour disputes and the exercise of the right to strike (this right is due to be included in the future Constitution). Consultations regarding these bills are under way with the International Labour Office, with the aim of ensuring that they are in conformity with international provisions.

122. The Government has initiated a dialogue with trade union leaders to discuss problems concerning the recent price liberalization and the proposed social welfare measures. The dispute over trade union funds was another of the questions mentioned regarding unions. In the aftermath of the events of December 1989, a host of free and independent trade unions were formed. There are now several trade unions and two major confederations, the National Confederation of Free Trade Unions (CNSL) and the Confederation of Independent Trade Unions (Fratia). According to the members of independent trade unions, the CNSL has set itself up as the administrator of the enormous trade union funds inherited from the old trade union grouping known as the General Union of Romanian Trade Unions, which was disbanded after December 1989. An agreement was signed by eight major unions to redistribute these funds among themselves but there are still some unresolved problems.

123. According to the information received, some members of independent trade unions have been subjected to pressure, threats or labour discrimination because of their union activities.

H. Right to an adequate standard of living

124. As regard the right to an adequate standard of living, considerable difficulties seem to remain, according to the persons with whom the Special Rapporteur spoke, on account of the magnitude of the economic problems and the attitudes inherited from the past. Thus, with the shift to a market economy, marked by the price liberalization which has been partially applied since November 1990, there has been resistance in some quarters, one form being huge protest movements. There is no doubt that the economic system needs to be made more efficient and reformed in depth, and, according to several persons interviewed by the Special Rapporteur, this might initially result in a decline in the standard of living of the population, who have already been sorely tried by the economic and social crisis. Admittedly, a number of positive measures have already been taken. Thus, as regards the right to food, measures to privatize the economy and liberalize private initiative have apparently produced some improvement in the supply of foodstuffs. Nevertheless difficulties remain in the case of certain essential products such as flour, sugar and oil. And there is still a housing shortage, some people being forced to live in extremely cramped dwellings, sometimes even without windows.

125. As regards the right to health, the decriminalization of abortion has led to a decline in the maternal mortality rate (which used to be extremely high because of the criminal penalties against abortion imposed under an all-out policy of increasing the birth rate, under which a considerable number of clandestine abortions were performed - often in rudimentary conditions). However, many health problems remain, with a dire shortage of medicines and qualified medical staff (in particular nurses and dressers), especially in hospitals. This shortage is assuming tragic proportions in the institutions for disabled children. Emphasis was also placed on the need for structural reform in social security and social psychiatry and for a better distribution of responsibilities among the various ministries involved (health, labour, education). The situation in orphanages, where the Special Rapporteur was told that living conditions were extremely difficult, has received special attention from the authorities. In September 1990, for example, a children's committee under the authority of the Prime Minister was set up and a State Secretariat for Children established.

I. Right to education; cultural rights

126. According to the information received, a number of measures have been adopted in the area of education. Thus, at the level of higher education, the principle of university autonomy has been established. By government decision No. 4/1990, an advisory committee was set up within the Ministry of Education, composed of teachers and student representatives, to review the proposals for reorganizing higher education. The Special Rapporteur was informed that the principle of establishing free universities was to be included in the new Constitution. Discussions are now under way concerning the recognition of diplomas from these universities.

127. Other measures have been taken at the pre-school, primary and secondary levels and in vocational education to reduce teachers' working hours and improve teaching conditions. A number of textbooks have been rewritten in order to take the new guidelines into account.

128. A human rights professorship has been created in the Faculty of Law at the University of Bucharest. Furthermore, a general introductory human rights course open to all the students of the university has started in the academic year 1990-1991.

129. Government decision No. 521 of 12 May 1990 sets forth the regulations relating to the organization and administration of teaching in Romania for the academic year 1990-1991. This decision includes a chapter on education in the languages of the national minorities. A new bill on education is now under consideration.

130. Several persons stressed the great practical difficulties in the teaching field, especially the shortage of qualified staff and the lack of premises. Classes are usually overcrowded and a shift system is often used (with as many as three shifts a day) in the same school. Educational materials are also in short supply.

131. As regards education in the languages of the minorities, the information compiled by the Special Rapporteur shows that a number of measures have been taken to meet the demands of teachers, parents and pupils of the Hungarian ethnic group. The number of classes in the minority languages has been increased and separate Hungarian-language schools, especially at the secondary level, have been established. Other demands have still not been met, as in the case of the Bolyai High School in Tirgu Mures and in the area of vocational training. However, some members of the Romanian ethnic group regard these measures as potentially dangerous and have reservations about them (see also chap. J below). According to some members of the Hungarian minority, these reservations, which are harboured and aggravated by certain media, have in several cases led the Romanian authorities to reverse decisions establishing separate schools for that minority. The atmosphere of inter-ethnic tension has reportedly sometimes prevented pupils of Hungarian origin from exercising their right to use Hungarian in entrance examinations for certain higher-level schools. It would appear that the demand by representatives of the Hungarian ethnic group to make the Bolyai University in Cluj and the Institute of Medicine and Pharmacy in Tirgu Mures fully-fledged Hungarian institutions will not be complied with in the near future.

132. There are also high schools where the language of instruction is German. These institutions, which also accept students from the Romanian ethnic group, have lost many of their teachers and students through massive emigration by members of the German minority.

133. As regards members of the gypsy minority (estimates of their number vary from 1.5 to 3 million), their incorporation into the school system often poses serious problems. At present, there are four classes which are taught in the gypsy language in high schools in Bucharest, Timisoara, Tirgu Mures and Bacau. Stress was repeatedly laid on the need, in the case of the gypsies, for vocational guidance options taking account of the particular aspirations and cultural traditions of this minority.

134. The cultural renaissance which the Special Rapporteur described after his previous visit in February 1990 seems to be gaining strength through theatrical activities and publications of all kinds. This renaissance is, however, encountering difficulties because of the paper shortage and archaic printing equipment. In the field of radio and television, a bill is now under consideration. Many cultural associations have been formed, and measures have been taken to preserve and restore the cultural heritage and historical monuments and sites. A bill has been submitted on the preservation of historical monuments. Various measures have also been taken to encourage the cultural expression of the national minorities. Radio stations broadcasting in Hungarian and German have reopened and are now operating on a daily basis. A weekly three-hour television programme is reserved for the Hungarian minority and a weekly one-hour programme for the German minority. A Directorate-General to promote expression of the cultural identity of the minorities has been set up within the Ministry of Culture. Other examples were given of the ways in which the situation of the minorities has improved with regard to cultural rights: reactivation of bilateral agreements with Hungary, providing for the reopening of Hungarian cultural institutes; initiatives such as folk festivals and other cultural events, aimed at slowing and limiting the mass emigration of members of the German minority; the search for cultural solutions to meet the specific needs of members of the gypsy minority; and lastly, measures giving special advantages to the small minorities which so far have been neglected (such as the Serbs and the Turks).

J. Rights of persons belonging to minorities

135. According to the information received, there has been a definite improvement in the status of the national minorities in several respects. Measures have, for example, been taken in the area of education (see paras. 131-133 above), culture (see para. 134 above) and the exercise of religious freedoms (especially for the Hungarian members of the Romanian Catholic and Reformed Protestant Churches). Similarly, the participation of national minorities in the conduct of public affairs has been guaranteed by the principle of proportional representation in Parliament and by the automatic allocation of one seat in the Chamber of Deputies to each organization which failed to gain the required number of votes in the election of 20 May. Thus, the various national minorities are actually represented in Parliament. After the NSF, the UDMR party is currently the second political force in the country. Other political groups representing the interests of the minorities in Parliament are the German Democratic Forum, the Democratic Union of Romanian Gypsies, the Union of Romanian Armenians, the Bulgarian Union of Banat and the Bulgarian Cultural Association in Bucharest, the

Democratic Union of Romanian Serbs, the Democratic Union of Romanian Slovenes and Czechs, the Hellenic Union of Romania, the Union of Romanian Poles, the Union of Romanian Ukrainians and the Moslem Turkish Democratic Union.

136. Notwithstanding these positive developments, the atmosphere of distrust and mutual misunderstanding among various national ethnic groups, noted in the Special Rapporteur's previous report (E/CN.4/1990/28/Add.1, para. 64), seems to have persisted and in some cases worsened substantially. Thus in March the already tense relations, in certain circles, between members of the Romanian and Hungarian ethnic groups, deteriorated to the point where violent incidents occurred in Transylvania; clashes in Tirgu Mures on 19 and 20 March left six dead and several hundred injured. While the versions of who was initially responsible for sparking off the violence diverge considerably, depending on the source, the information received has generally been that the police stood by and failed to respond adequately to appeals for help in quelling the violence. The report of the Parliamentary commission of inquiry set up after these developments (see para. 96 above) was not available by the time this report was completed. This upsurge of violence during March seems to have caused increased radicalization among the parties concerned.

137. The main demands of the Hungarian minority concerning, in particular, an end to the discrimination inherited from the past, the reopening of high schools (or university classes) with Hungarian as the language of instruction, the use of one's mother tongue in all day-to-day transactions and, generally speaking, cultural and administrative autonomy, have been partially satisfied. In practice, however, these claims have often met with strong resistance at the local level (for example, concerning the question of education and the separation of schools on the basis of language, and the question of bilingual enrolment, although regulations have been passed authorizing the restoration of this practice).

138. Some members of the Romanian ethnic group seem to see these measures as manifestations of a desire for separatism on the part of members of the Hungarian community and, in regions with a mixed population, as constituting a threat of marginalization for persons of Romanian ethnic origin. Certain groups, such as the Vatra Romaneasca Union and the Romanian National Union Party, represented in Parliament by the National Unity Alliance, have made protection of the Romanian heritage one of their main policies. Some people whom the Special Rapporteur interviewed felt that those groups nurtured and fanned inter-ethnic tension, especially through certain media which allegedly manipulated public opinion by exacerbating nationalist sentiments. According to representatives of the Hungarian minority, this manipulation of public opinion has had adverse effects on the rights of this minority. Apart from the question of teaching (see para. 131 above), the case was cited of a number of young men of Hungarian ethnic origin from Tirgu Mures, who were sentenced to two and a half years' imprisonment (which was considered unduly severe) for an incident whose seriousness is challenged by members of the Hungarian community.

139. This community further considers that it is not adequately represented in local administrative organs or at the executive level in economic enterprises. Its main demand is that the new Constitution should provide institutional guarantees for the collective rights of minorities.

140. According to the information received, even though the members of the gypsy community in Romania has been able to form political parties and independent cultural associations which have enhanced awareness of its civil and political rights, it is subjected to defamation campaigns that sometimes take the form of public incitement to racial hatred and lead to acts of physical violence, looting and the destruction of houses. During the events of June 1990 in Bucharest, for example, statements by several senior officials - including some on television - exposed the gypsies in particular to public condemnation. In this connection a complaint was lodged by the Ethnic Federation of Gypsies against the Director-General of Romanian Television. The information received also shows that there has been a certain amount of discrimination against the gypsies in the administration of justice. Thus, the gypsies arrested in connection with the inter-ethnic clashes in Tirgu Mures (where they reportedly intervened on the side of members of the Hungarian minority) were tried in accordance with the emergency procedure provided for in Decree No. 153/1970 (see para. 95 above). Similarly, most of the persons arrested during the events of 13-15 June 1990 were said to be members of the gypsy community. The incidents in which members of the gypsy community were attacked culminated in the serious incidents of 9 October 1990 at Kogalniceanu, in the district of Constanta, during which houses inhabited by gypsies were wrecked and burned, leaving nearly 200 people homeless. According to several persons interviewed by the Special Rapporteur, the local authorities remained passive and did not take the necessary action to prevent those incidents or to identify and prosecute the persons responsible. Generally speaking, several persons expressed the view that the authorities - like the majority of the population - tend to regard the gypsy community as a whole as deviant and criminally inclined, and to tolerate, and sometimes even encourage, expressions of hostility towards them.

IV. CONCLUSIONS AND RECOMMENDATIONS

141. In his first report, submitted on 18 December 1989 (E/CN.4/1990/28), the Special Rapporteur pointed out that human rights were being seriously violated in Romania. In the addendum to that report (E/CN.4/1990/28/Add.1), which was written after the events of December 1989, he noted that respect for human rights had improved considerably in Romania.

142. In this report he is able to confirm this development. However, the process is far from complete. Not all the necessary legislative reviews have been completed; several are in progress, and others are planned. Furthermore, the implementation of certain fundamental rights is encountering de facto conditions which can only be improved gradually: economic difficulties, serious shortages in certain professions, continuation of attitudes and habits inherited from the former régime, etc. And progress has been affected by some unfortunate lapses.

143. The right to life and to physical and moral integrity is guaranteed in principle and respected in general. It must be pointed out, however, that in both cases excessively brutal action by the police has caused, if not fatalities among demonstrators (this point is disputed), at least occasional serious injuries and other violations of their physical and moral integrity, such as assaults, insults and threats. Conversely, it was the passive behaviour of the police which, in some cases, permitted violent clashes

between language communities or brutal action by persons who were completely unqualified for maintaining law and order. In this connection, the doings of the "miners" on 14 and 15 June 1990 are particularly regrettable. These people, who were condoned if not summoned by the authorities, clearly had the backing of figures whose identity appears to be still in doubt. They took action in the streets of Bucharest, brutally assaulting many people, arresting others, making illegal searches, attacking and destroying private and even public property. The special targets of their attacks were persons and organizations opposed to the Government, students and members of the gypsy minority. These events undoubtedly constituted the most serious violation of human rights in Romania in 1990.

144. Respect for privacy is also guaranteed, but confidence has not yet been restored and many people are convinced that - unrelated to any judicial procedure - their telephone conversations are tapped and their correspondence vetted. The Special Rapporteur is unable to express an opinion on the basis of these charges.

145. The administration of criminal justice is in the process of being reorganized. The necessary legal instruments have been enacted or are in the course of being prepared in order to guarantee the independence of judges and the right of persons to be arrested only on the basis of a judicial warrant, to be presumed innocent, to be informed of the reasons for the arrest and the charges, to contact their relatives and a lawyer of their choice, and to be treated with dignity. In practice, fairly frequent violations of human rights in this area have still been reported: arrests where the reason is not notified to the persons arrested, incommunicado detention for several weeks, appearance in court in prison clothing, etc.

146. Similarly, the regulations governing places of detention should be amended. Thus the Special Rapporteur noted obvious overcrowding in the prisons and police stations he visited. Admittedly, improvement of these conditions is being impeded by the increase in crime and the lack of resources. In addition, insulting or threatening detainees also appears to be a fairly frequent practice. It is to be hoped that this situation will improve when the prison services are made subordinate to the Ministry of Justice.

147. Freedom of movement has been completely restored. A violation reported to the Special Rapporteur is in the process of being resolved.

148. Freedom of thought, conscience, religion and belief is guaranteed and respected. There remains the problem of the restoration of the property taken from certain Churches, in particular the Romanian Greek (Uniate) Catholic Church.

149. Freedom of expression and opinion has been restored. However, the exercise of this freedom is still being impeded by the shortage of paper, the insufficient number of printing works and deficiencies in the distribution system. These difficulties are, to a certain extent, understandable if one bears in mind the fact that the number of publications and their circulation have increased considerably in a few months.

150. Freedom of assembly and association also appears to have been completely restored. Similarly, public demonstrations are permitted and are indeed frequent. It is nevertheless regrettable that some unauthorized demonstrations have been dispersed by the police with excessive violence. Thus, on 13 June 1990 a demonstration - which had not been authorized but had in fact been tolerated for several weeks - was broken up with completely unjustified brutality.

151. The right to work does not appear to be the subject of any infringement by the authorities. Working hours have been reduced for many workers, wages are admittedly very low in general but it is undoubtedly difficult to do any better, given the precarious nature of the economic situation. Trade union rights are generally respected, although in one case the founders of a trade union told the Special Rapporteur that they had been seriously threatened. There still remains the problem of what will be done with the substantial assets of the old General Union of Romanian Trade Unions, which has been disbanded.

152. The right to an adequate standard of living is also being affected by the difficult economic conditions. In particular, medical care and the accommodation of disabled persons and orphans are suffering from the lack of resources and the shortage of properly trained nursing staff. These conditions are a legacy of the past and progress will obviously be slow.

153. Cultural rights, too, do not appear to be the subject of any violation by the authorities. Education is suffering from the shortage of resources and qualified teachers.

154. The situation of the minorities is more difficult.

155. The German ethnic minority is steadily declining in numbers as a result of considerable emigration. Members do not seem to be complaining about violation of their rights.

156. The situation of the Hungarian ethnic minority is improving. The minority is well represented in Parliament, its cultural activities are unrestricted, and it has broadcasting time on national television. In the educational sector, several primary and high schools, where classes are given in Hungarian, have been reopened. But members of the minority consider - rightly, it would seem - that further progress is needed in this direction in order to ensure that the greatest possible number of children of Hungarian origin receive a complete education in their mother tongue. Moreover, the minority considers itself to be insufficiently represented among the authorities, in particular the local authorities, and among the management of economic enterprises. It hopes to benefit from vocational training in Hungarian and is calling for the reopening of the Bolyai Hungarian University in Cluj. In the face of these demands, the Romanian authorities have stated that they are firmly resolved to treat members of the Hungarian minority on an equal footing with members of the Romanian majority. This would already mark a considerable improvement over the situation under the previous régime. But the Special Rapporteur considers, as he has already stated in his first report (E/CN.4/1990/28, para. 227), that, in order to ensure the survival and development of minorities, it is not sufficient simply to make them subject to the same rules as those applicable to the population as a whole; they must be

given treatment appropriate to their identity and needs. In Romania, such a policy is encountering the opposition of a significant proportion of members of the Romanian ethnic group, in particular certain Romanian organizations which regard any special treatment as an inadmissible privilege. One even gains the impression that in several places the Romanian and Hungarian-language communities are separated by a gulf of mistrust and even hatred. It will be incumbent on the Romanian authorities to do everything in their power to establish an atmosphere of peace and trust between the two communities.

157. Despite its large size, the gypsy community is only just beginning to receive recognition. It is not well organized and one has the feeling that it is very marginalized. Generally speaking, the Romanian population distrusts this community, accuses it of idleness and even criminal tendencies, and scorns it. In the opinion of the Special Rapporteur, this constitutes an important minority problem to which the Romanian authorities will undoubtedly devote their attention.

158. The other minorities are not substantial and do not appear to be complaining that their rights have been violated.

159. Generally speaking, there is still a certain lack of tolerance with regard to democracy and pluralism. Anyone who acts, thinks or speaks differently from the majority is in many cases regarded as an enemy. This phenomenon affects not only relations between language communities, but the whole of the political and social life of the country. The authorities can only be encouraged in their efforts to promote tolerance and stimulate dialogue.

160. In the area of human rights, there is still a climate of suspicion and mistrust. Many people state that their right to privacy is not sufficiently respected, that peaceful demonstrations by the opposition are frequently infiltrated by agents provocateurs or are immediately followed by organized counter-demonstrations, and that threats to leaders and journalists of the opposition parties and organizations are systematic. In all these activities they see the hand of the former Securitate, which, they say, is continuing to act in a clandestine manner. The Special Rapporteur is unable to express an opinion on these charges, but he considers that the mistrust would abate if the authorities informed the population clearly and precisely about the former Securitate and the present situation of its agents.

161. Romania overthrew the dictatorship one year ago. Although respect for human rights has improved considerably in Romania since then, many things remain to be done and they are at present at the planning stage. A new Constitution is being drafted and is to be adopted by Parliament before 20 November 1991. Several legislative acts promoting human rights have been promulgated, but have not yet been tested in practice. Some institutions have already been reformed, and others are to be reformed. The attitudes of the population inherited from the old régime are changing only slowly. The Commission on Human Rights may consider it useful, in these circumstances, for its Special Rapporteur to continue to follow developments and to submit his observations and recommendations to it.

162. In this process, Romania needs the continued assistance of the international community. In particular, it is planned to set up in Romania a Human Rights Institute, which would publicize those rights and act as a documentation and research centre. This Institute should be supported, provided that it is guaranteed the necessary independence.

163. The Special Rapporteur therefore recommends that the Commission on Human Rights should:

(a) Take note of the fact that, despite regrettable lapses, respect for human rights is in general continuing to improve in Romania;

(b) Recommend that the Romanian authorities should:

(i) Continue their action to ensure that human rights in all their aspects are respected in their country, both de jure and de facto;

(ii) Pay particular attention to the points raised in this report by the Special Rapporteur;

(iii) Consider the possibility of continuing to use the Voluntary Fund for Advisory Services set up by the Centre for Human Rights, in particular in order to establish a Human Rights Institute, which would act as a documentation, research and information centre in this field.

Annex I

PROGRAMME OF WORK FOR THE VISIT TO ROMANIA FROM 19 TO 23 AUGUST 1990

Sunday, 19 August 1990

6.25 p.m.	Arrival in Bucharest and first meeting with officials from the Ministry of Foreign Affairs
9 to 11 p.m.	Private meetings

Monday, 20 August 1990

9 a.m.	Meeting with Mr. Radu Giroveanu, Under-Secretary of State, and other officials from the Ministry of Justice
11 a.m.	Meeting with Mr. Adrian Nastase, Minister, and other officials from the Ministry of Foreign Affairs
3 p.m.	Meeting with Mr. Bogdan Marinescu, Minister, and other officials from the Ministry of Health
4.30 p.m.	Meeting with Mr. Gheorghe Robu, Government Attorney
6 to 10 p.m.	Private meetings

Tuesday, 21 August 1990

9 a.m.	Meeting with Major-General Corneliu Diamandescu, Major-General Dumitru Penciuc and Colonel Gheorghe Carp, Secretaries of State, and Major-General Gheorghe Bostina, Chief of the Directorate-General for Prisons in the Ministry of the Interior
11 a.m.	Meeting with Mr. Coriolan Babeti and Mr. Andor Horvath, Secretaries of State in the Ministry of Culture
2 p.m.	Visit to the disabled persons' institute in Plateresti
4.30 p.m.	Visit to the prison hospital in Jilava
8.30 to 10.30 p.m.	Private meetings

Wednesday, 22 August 1990

8.45 a.m.	Arrival in Tirgu Mures
9 a.m.	Private meetings
2 p.m.	Meeting with Mr. Vasile Urdea, Prefect of the District of Mures, and Mr. Victor Suciu, Mayor of Tirgu Mures

3.30 p.m.	Private meetings
6.10 p.m.	Return to Bucharest
8.30 to 11 p.m.	Private meetings

Thursday, 23 August 1990

9 a.m.	Meeting with Mr. Lazar Vlasceanu, Vice-Rector of the University of Bucharest, and Mr. Alexandru Athanasiu, Professor in the Faculty of Law
10.30 a.m.	Private meetings
2 to 3 p.m.	Meeting with officials from the Ministry of Foreign Affairs
4.40 p.m.	Departure from Bucharest

Annex II

PROGRAMME OF WORK FOR THE VISIT TO ROMANIA
FROM 1 TO 9 NOVEMBER 1990

Thursday, 1 November 1990

3.50 p.m.	Arrival in Bucharest and first meeting with officials from the Ministry of Foreign Affairs
6.30 to 10 p.m.	Private meetings

Friday, 2 November 1990

8 a.m.	Meeting with Mr. Lucian Stingu, Under-Secretary of State, and other officials from the Ministry of Justice
10 a.m.	Meeting with Mr. Marin Popa, First President of the Court of the Municipality of Bucharest, and other judicial officers
11.30 a.m.	Meeting with Mr. Adrian Nastase, Minister, and other officials from the Ministry of Foreign Affairs
3.30 p.m.	Meeting with Colonel Mugurel Florescu, Deputy Government Attorney, and the Civil Prosecutor for the City of Bucharest
6 to 8 p.m.	Meeting with Mr. Razvan Theodorescu, President of Romanian Radio and Television

Saturday, 3 November 1990

9 a.m. to 7 p.m.	Private meetings

Sunday, 4 November 1990

10 a.m.	Meeting with Colonel Mugurel Florescu, Deputy Government Attorney
3 to 7 p.m.	Private meetings

Monday, 5 November 1990

10 a.m.	Meeting with Mr. Radu Constantinescu, Mr. Teodor Dan and Mr. Surdu, officials from the State Secretariat for Worship
Noon	Meeting with Deputy Nicolae Radu, Chairman of the Parliamentary Commission of Inquiry into the events of 13-15 June 1990
2 p.m.	Private meetings

6 p.m.	Meeting with Senator Antonie Iorgovan, Chairman, and members of the Commission set up to draft a Constitution
8 to 10 p.m.	Private meetings

Tuesday, 6 November 1990

10.30 a.m.	Arrival in Brasov
11 a.m.	Meeting with Mr. Ioan Sofroniau, Prefect of the District of Brasov, Mr. Ervin Zamhammer, Deputy Prefect, and other local officials
1 to 7 p.m.	Private meetings
10 p.m.	Arrival in Sibiu

Wednesday, 7 November 1990

11 a.m.	Meeting Mr. Nicolae Nan, Prefect of the District of Sibiu, and another official from the Prefecture
1 to 4 p.m.	Private meetings
8.30 p.m.	Return to Bucharest

Thursday, 8 November 1990

8 a.m.	Meeting with Mr. Doru Viorel Ursu, Minister, and Major-General Dumitru Penciuic, Secretary of State in the Ministry of the Interior
11 a.m.	Meeting with Mr. Catalin Zamfir, Minister, and Mr. Alexandru Athanasiu, Adviser in the Ministry of Labour and Social Welfare
1 p.m.	Visit to police stations No.11 and No.10 and the Criminal Investigation Department in Bucharest
5 p.m.	Meeting with Mr. Petre Roman, Prime Minister

Friday, 9 November 1990

9 a.m.	Visit to the rehabilitation centre for juvenile offenders in Gaesti
Noon	Return to Bucharest
2.30 p.m.	Meeting with Mr. Constantin Ene, Secretary of State, and other officials from the Ministry of Foreign Affairs
4.25 p.m.	Departure from Bucharest

Annex III

CHAPTERS I, VI AND VII OF DECREE-LAW NO. 92 ON THE ELECTION OF PARLIAMENT AND THE PRESIDENT OF ROMANIA */

Taking into account the proposals and conclusions of the public debate on the draft decree-law formulated in the press, radio and television as well as directly, and the results of discussions with political parties and organizations,

The Provisional Council of National Unity decrees:

Chapter I

General provisions

Article 1. Political power in Romania is vested in the people and is exercised in conformity with the principles of democracy, liberty, and respect for human dignity and for fundamental human rights, which are inviolable and inalienable.

Article 2. The basis of Romania's Government is a pluralist democracy and the separation of legislative, executive and judicial powers.

Article 3. Romania's Parliament, which comprises the Chamber of Deputies and the Senate, and the President of Romania are elected by free universal, equal, direct and secret ballot.

Article 4. Representation in Parliament of the population of all nationalities is on the basis of the proportionality of the seats resulting from the ballot in the conditions of the present decree-law.

The organizations of the ethnic minorities, registered by the time the present decree-law is adopted, which fail to obtain the number of votes required under paragraph 1 for one seat in the Chamber of Deputies are entitled to one seat.

Article 5. Every citizen is entitled to one vote only in the election for the Chamber of Deputies, the Senate and the President of Romania.

Article 6. The Chamber of Deputies has 387 members, to whon others may be added under article 4, second paragraph.

For the Senate, the number of seats allocated to counties differs with their population, so that two senators shall be elected in counties with a population between 500,000 and 750,000, and four senators in counties with a larger population; the city of Bucharest shall elect 14 senators.

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*/ Unofficial translation.

Article 7. Members of Parliament are elected by constituencies established under the present decree-law.

The President of Romania is elected by citizens with a voting right throughout the country.

In one constituency one political party or organization can have only one list of candidates.

Article 8. Romanian citizens exercise their electoral rights equally and fully, without distinction as to nationality, race, language, religion, sex, political opinion or profession.

Article 9. Romanian citizens above the age of 18 or who are 18 in an election year have the right to vote.

Citizens with voting rights above the age of 21 are eligible for the Chamber of Deputies, and citizens with voting rights above the age of 30 are eligible for the Senate and as the President of Romania.

Only citizens who reside in the country and have a lawful profession or occupation can run in an election.

Article 10. Insane and mentally handicapped persons as well as persons who are deprived of voting rights for a specific duration under a judicial ruling are not eligible and cannot vote.

Persons who have abused their political, judicial or administrative positions, who have disregarded fundamental human rights, or who have organized or been instrumental in repression as part of the former Securitate, former police or militia forces are not eligible.

Ineligibility also applies to persons who are legally banned from political party membership.

Article 11. Nominations for Parliament and for the President of Romania can be made by political parties or other legally established organizations.

Nominations for Parliament are made from candidate lists whose number should not be larger than that of deputies or senators that each constituency must elect.

One political party or organization can make only one nomination for the President of Romania. Independent candidates may also run. A candidate - whether of political parties or organizations or independent - may run for the presidency only if he has at least 100,000 supporters.

For the Chamber of Deputies or the Senate there may be also independent candidates or, under the second paragraph, independent candidate lists. Each independent candidate must have the support of at least 251 electors.

One candidate may run for Parliament in one constituency only.

Article 12. The date of the election shall be set by decree at least 60 days in advance.

Chapter VI

Parliament

Article 79. The Chamber of Deputies and the Senate are called to their first session on the twentieth day from the election date and they shall elect separately, under the chairmanship of the most senior deputy or senator, a validation commission composed of representatives of several political parties or organizations.

Validation commissions verify the files and lawfulness of the election and submit the mandate of each deputy and senator to the vote of the Chamber of Deputies and the Senate. Validation and invalidation are decided by each Chamber separately.

After mandates are validated and the Chamber of Deputies and the Senate are declared lawfully formed, the two Chambers shall elect their working bodies and adopt their working rules.

Article 80. The joint session of the Chamber of Deputies and the Senate are a Constituent Assembly that adopts the Constitution of Romania. The presidency of the Constituent Assembly is rotated between the President of the Chamber of Deputies and the President of the Senate.

Until the Constitution of Romania takes effect, Parliament shall function also as a law-making body. After the Constitution takes effect, Parliament shall hold new elections within one year.

Chapter VII

The President of Romania

Article 81. The election of the President of Romania is validated by the Higher Court of Justice in plenary session within 20 days from the election date.

The decision of the Court is read before the joint session of the Chamber of Deputies and the Senate. From that date, the president-elect becomes the President of Romania.

Once elected, the President of Romania cannot be a member of any political party or organization.

Should the presidency become vacant or the President be unable to fulfil his duties, the President of the Senate shall act as President of Romania. Should the office remain vacant, elections would be called within three months.

Article 82. The President of Romania:

(a) Appoints the Prime Minister, who is the representative of the political party or organization that obtains the majority of seats in Parliament; in the absence of a quorum he designates another deputy or senator in consultation with the political parties and organizations represented in Parliament; the composition of the Government shall be put

(b) Appoints the President and members of the Higher Court of Justice upon the Senate's advice, as well as the Prosecutor-General;

(c) Can call Parliament in extraordinary session;

(d) May dissolve the Constituent Assembly with the consent of the Prime Minister and the Presidents of the Chamber of Deputies and the Senate if the Constitution has not been adopted within nine months; the Constituent Assembly shall be considered dissolved if it fails to pass the Constitution within 18 months of its formation;

(e) Reads an annual message in Parliament on the nation's major political questions;

(f) May declare partial or general mobilization subject to parliamentary approval; in exceptional cases, the President's decision is put before Parliament for approval within five days of its taking effect;

(g) Declares a state of emergency throughout the country or in certain places with parliamentary consent within five days of its institution;

(h) Concludes international treaties, which are submitted to Parliament for ratification;

(i) Appoints and recalls Romania's diplomatic representatives and receives the representatives of other States;

(j) Has the right of pardon and commutation of sentences;

(k) Confers the ranks of general, admiral and marshal;

(l) Awards decorations and honorary orders;

(m) Promulgates laws.

In discharging the above powers, the President of Romania issues decrees. Decrees shall also be signed by the Prime Minister.

Article 83. Should he engage in activities unworthy of the presidential office, he shall be suspended by the joint vote of the Chamber of Deputies and the Senate. The President can be dismissed from office only after a referendum is called within one month of his suspension by Parliament.

His suspension as well as proposals for dismissal shall be decided by Parliament only on the request of at least one third of the members of the Chamber of Deputies and the Senate.

Ion Iliescu
President of the Provisional
National Unity Council

Bucharest, 14 March 1990
No. 92

Annex IV

LEGISLATIVE DECREE CONCERNING CERTAIN MEASURES RELATING TO THE ROMANIAN GREEK (UNIATE) CATHOLIC CHURCH

The Provisional Council of National Unity hereby decrees as follows:

Article 1. In consequence of the abrogation of Decree No. 358/1948 by Legislative Decree No. 9 of 31 December 1989, the Romanian Greek (Uniate) Catholic Church is officially recognized.

The Romanian Greek (Uniate) Catholic Church shall be organized and shall function in accordance with the general legal régime of religious faiths in Romania.

Article 2. The assets taken over by the State pursuant to Decree No. 358/1948 and at present forming part of the State's patrimony, with the exception of the estates, shall be returned, in their present condition, to the Romanian Greek (Uniate) Catholic Church. A commission composed of representatives of the State and of the Romanian Greek (Uniate) Catholic Church, appointed by order of the Government, shall be established to identify, inventory and hand over the said assets.

Article 3. The legal status of the places of worship and parish houses which belonged to the Romanian Greek (Uniate) Catholic Church and which were taken over by the Romanian Orthodox Church shall be determined by a mixed commission composed of clerical representatives of the two religious denominations, taking into account the wishes of the faithful in the communities which hold those assets.

Article 4. In localities where the number of places of worship is insufficient in proportion to the number of the faithful, the State shall encourage the construction of new places of worship and to that end shall make the appropriate sites available to the denominations concerned. Where it has no such sites at its disposal, it shall contribute with pecuniary funds to the constitution of the necessary financial resources.

Ion Iliescu
President of the Provisional
Council of National Unity

Bucharest, 24 April 1990
No. 126

Annex V

PARLIAMENT OF ROMANIA

ASSEMBLY OF DEPUTIES SENATE

ACT TO AMEND AND SUPPLEMENT SOME PROVISIONS OF THE CRIMINAL CODE AND THE CODE OF CRIMINAL PROCEDURE

The Parliament of Romania adopts this Act.

Article I. The Criminal Code shall be amended and supplemented as follows:

1. A new final paragraph reading as follows shall be added to article 117:

"The persons referred to in this article shall not be expelled if there are serious reasons for believing that they risk being subjected to torture in the State to which they are to be expelled."

2. After article 267, an article 267 (1) reading as follows shall be inserted:

Torture. "Article 267 (1). Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any other reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, shall be punishable with imprisonment for not less than two and not more than seven years.

If the act referred to in the first paragraph has had any of the consequences specified in article 181 or 182, the penalty shall be imprisonment for not less than 3 and not more than 10 years.

Torture which has resulted in the death of the victim shall be punishable with detention for life or imprisonment for not less than 10 and not more than 20 years.

Any attempt shall be punishable.

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture; similarly an order from a superior officer or a public authority may not be invoked.

The acts referred to in the first paragraph shall not constitute the offence of torture if the pain or suffering arises only from or is inherent in or incidental to lawful sanctions."

Article II. The Code of Criminal Procedure shall be amended and supplemented as follows:

1. Article 27, paragraph 1, subparagraph (a), shall read as follows:

"(a) The offences prescribed by the Criminal Code in articles 174-177, 190, 212, 218, 219, paragraph 3, if the act has resulted in a disaster, and paragraph 4, article 223, paragraph 3, article 224, paragraph 3, article 225, paragraph 3, article 226, article 229, paragraph 3, article 231, paragraphs 3 and 4, article 232, paragraphs 3 and 4, article 248, paragraph 2, article 267 (1), article 273, paragraph 2, article 274, paragraph 2, article 275, paragraph 3, and articles 276, 282 and 317;".

2. Article 209, paragraph 3, shall read as follows:

"The procurator shall be bound to prosecute in the case of the offences prescribed in articles 174-177, 179, 189-191, 212, article 225, paragraph 3, articles 226, 236, 254, 255, 257, 265, 266, 267 (1), 268, 273-276, 282-285, 299-302 and 317 of the Criminal Code, in the case of the offences referred to in article 26, paragraph 2, subparagraph (b), article 27, paragraph 1, subparagraphs (b) and (d), article 28, paragraph 1, subparagraph (c), and article 29, paragraph 1, subparagraph (b), of this Code, and in the case of offences against occupational safety and health."

This Act was adopted by the Senate at its meeting of 11 September 1990.

(Stamp of the President of the Senate, Parliament of Romania)

(Signed) (illegible)
Alexandru Bîrlădeanu
Academician
President of the Senate

This Act was adopted by the Assembly of Deputies at its meeting of 25 September 1990.

(Signed) M. Dan
Marţian Dan
President of the Assembly of Deputies

On the basis of article 82, subparagraph (m), of Legislative Decree No. 92/1990 concerning the election of the Parliament and President of Romania,

I hereby promulgate the Act to amend and supplement some provisions of the Criminal Code and the Code of Criminal Procedure and order its publication in Monitorul Oficial al României.

(Signed) Iliescu
Ion Iliescu
President of Romania

Bucharest, 9 October 1990
No. 20

Annex VI

PARLIAMENT OF ROMANIA

ASSEMBLY OF DEPUTIES SENATE

ACT TO TRANSFER THE DIRECTORATE-GENERAL FOR PRISONS FROM THE ESTABLISHMENT OF THE MINISTRY OF THE INTERIOR TO THE CONTROL OF THE MINISTRY OF JUSTICE

The Parliament of Romania adopts this Act.

Article 1. The Directorate-General for Prisons shall pass, together with all its assets and liabilities, from the control of the Ministry of the Interior under the control of the Ministry of Justice.

Article 2. The military and civilian personnel of the Directorate-General for Prisons who transfer to the Ministry of Justice shall retain all the rights prescribed by the legal regulations in force.

The military personnel of the Directorate-General for Prisons - officers, warrant officers and non-commissioned officers - shall retain that status, while the civilian personnel of the said Directorate shall be deemed to have been transferred in the interests of the service.

The organizational structure, functions and powers of the Directorate-General for Prisons shall be approved by the Minister of Justice.

Article 3. The appointment, promotion and transfer to the reserve of officers, warrant officers and non-commissioned officers shall be effected, in accordance with the legal regulations, by order of the Minister of Justice.

Similarly the Minister of Justice shall determine the uniform for the military personnel of the Directorate-General for Prisons.

Article 4. The transfer of the Directorate-General for Prisons from the control of the Ministry of the Interior to that of the Ministry of Justice shall be effected on the basis of a protocol.

The rules governing the method of equipping the Directorate-General for Prisons with weapons, ammunition and other specific technical resources, of providing officers and other categories of personnel with training and advanced training and of fixing the pay and pensions of the military personnel and other matters concerning co-operation between the Ministry of the Interior and the Ministry of Justice shall be laid down in the protocol provided for in the first paragraph.

Article 5. Within a period of six months after the adoption of this Act, the Ministry of Justice shall draw up and submit for approval the draft of a new Act concerning the execution of penalties and of the Regulations to give effect to the said Act.

Article 6. The Ministry of Finance shall take measures to introduce the appropriate changes in the economic and financial indicators of the Ministry of Justice and the Ministry of the Interior, in accordance with this Act, on the basis of common proposals by these latter Ministries.

Article 7. Any provision which conflicts with this Act is hereby repealed.

Article 8. This Act shall enter into force within a period of 90 days after publication.

This Act was adopted by the Senate at its meeting of 2 October 1990.

(Signed) (illegible)
Alexandru Bîrlădeanu
Academician
President of the Senate

This Act was adopted by the Assembly of Deputies at its meeting of 9 October 1990.

(Signed) M. Dan
Martian Dan
President of the Assembly
of Deputies

On the basis of article 82, subparagraph (m), of Legislative Decree No. 92/1990 concerning the election of the Parliament and President of Romania,

I hereby promulgate the Act to transfer the Directorate-General for Prisons from the establishment of the Ministry of the Interior to the control of the Ministry of Justice and order its publication in Monitorul Oficial al României.

(Signed) Iliescu
Ion Iliescu
President of Romania

Bucharest, 15 October 1990
No. 21